

THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DISTRICT

M.J., )  
 )  
 Plaintiff, )  
 )  
 v. ) Cause No. 4:12-CV-00341 JAR  
 )  
 WASHINGTON UNIVERSITY )  
 IN ST. LOUIS PHYSICIANS, et al. )  
 )  
 Defendants. )

**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM**

COMES NOW Plaintiff, by and through attorney Matthew S. Chase, and for his Response to Defendants Mark Wright, Larry J. Shapiro, James P. Crane, Clay M. Semenkovich, Michael A. Kass, Ann E. Bradley, Neill M. Wright, Rhonda F. Kidwell, Ralph G. Dacey, Jr., and Patricia Fisher (collectively "Employee Defendants") Motion to Dismiss for Failure to State a Claim, respectfully sets forth as follows:

1. The general rule governing personal liability of an officer or director of a corporation for torts committed by the corporation is that he is not liable where he has not participated therein, nor had any knowledge of, nor given any consent to the act or transaction. *Leonard v. St. Joseph Lead Co. et al*, 75 F.2d 390, 395, (8th Cir. 1935).
2. Individual Defendant James P. Crane participated in, had knowledge of, and gave consent to wrongfully denying Plaintiff healthcare when he barred Plaintiff from premises of the Hospital Defendants, cancelled all appointments with all doctors employed or associated with the Hospital defendants and barred all physicians and other

staff from meeting with, speaking with or treating Plaintiff for medical conditions for which Plaintiff was then under the care of such physicians and staff.

3. Individual Defendants Mark Wrighton, Larry J. Shapiro, James P. Crane, Clay F. Semenkovich, Michael A. Kass, and Neal M. Wright are physicians or administrators of defendant Washington University who participated in, had knowledge of, and gave consent to wrongfully denying Plaintiff healthcare.

4. Individual Defendant Patricia Fisher is a Health Insurance Portability and Accountability Act Privacy Officer and participated in, had knowledge of, and gave consent to wrongfully violating Plaintiff's privacy when she refused to provide accounting disclosures of Plaintiff's protected health information, which he was entitled to under provisions 45 C.F.R. § 164.528.

WHEREFORE, Plaintiff has successfully stated claims of Defamation, Conspiracy to Deny Medical Care, and Violation of Privacy and Defendants' Motion to Dismiss should be denied.

Respectfully submitted,  
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Attorney for M. J., Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 22<sup>nd</sup> day of March, 21012, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon counsel for defendants:

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